

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Caroline Moses	Team: Squad #13	CCRB Case #: 202004651	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 06/26/2020 11:30 AM	Location of Incident: Inside of 645 5th Avenue (Armani Exchange)	Precinct: 18	18 Mo. SOL 12/26/2021	EO SOL 5/4/2022	
Date/Time CV Reported Fri, 06/26/2020 10:39 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 06/26/2020 10:39 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POF Karriza Cruz	24203	952626	C R C

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jerry Rivera	31633	953316	C R C

Officer(s)	Allegation	Investigator Recommendation
A.POF Karriza Cruz	Abuse: Police Officer Karriza Cruz threatened to remove § 87(2)(b) to the hospital.	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

Case Summary

On June 26, 2020, § 87(2)(b) filed this complaint via the CCRB's website.

On June 26, 2020, at 11:30 a.m., § 87(2)(b) and her home health aide, § 87(2)(b) entered Armani Exchange, located at 645 5th Avenue in Manhattan. § 87(2)(b) who uses a motorized wheelchair, removed her face mask and refused an employee's request for her to put it back on. The employee flagged down Police Officer Karriza Cruz and Police Officer Jerry Rivera, both of the Critical Response Command, who were posted near the store. PO Cruz and PO Rivera entered the store and PO Cruz threatened to remove § 87(2)(b) to the hospital (**Allegation A: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) left the store. No arrest or summons resulted from this incident. § 87(2)(g)

PO Rivera's body-worn camera captured part of this incident. The footage is located in IA #63 (**Board Review 01**) and summarized in IA #64 (**Board Review 02**). The store surveillance footage was also obtained and is located in IA #58 (**Board Review 03**) and summarized in IA #59 (**Board Review 04**), however, it does not capture § 87(2)(b) interactions with officers.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Karriza Cruz threatened to forcibly remove § 87(2)(b) to the hospital.

§ 87(2)(b) said she and § 87(2)(b) were shopping at Armani Exchange (**Board Review 05**). § 87(2)(b) was wearing a mask, but § 87(2)(b) was not because of a medical condition that makes it difficult for her to breathe while wearing one for extended periods of time. Two store employees asked § 87(2)(b) to put on a mask, one saying she had to leave the store if she refused, but § 87(2)(b) refused, and she and § 87(2)(b) continued to shop in the store. About 15 minutes later, PO Cruz and PO Rivera arrived and told § 87(2)(b) that she had to wear a mask if she was to remain in the store. § 87(2)(b) explained her medical condition, said that by forcing her to wear a mask, they were violating her First Amendment rights, and said the mayor had said no one would be arrested for not wearing a mask. PO Cruz told § 87(2)(b) that if she was sick, she would have to go to the hospital, and that she was calling an ambulance. § 87(2)(b) said she did not need an ambulance. § 87(2)(b) was not in any acute distress and never made any statements to suggest she posed a danger to herself or others. PO Cruz mentioned calling an ambulance for § 87(2)(b) at least four times, including saying, "If you're sick, I'm going to call the ambulance and when it arrives, you're going to get in," and, "You're sick, you will get in the ambulance." § 87(2)(b) did not recall PO Cruz's exact words for the other two times. Ten to fifteen minutes after the officers arrived, § 87(2)(b) and § 87(2)(b) completed checking out and voluntarily left the store. § 87(2)(b) was not ultimately removed to the hospital.

§ 87(2)(b)'s statement was generally consistent with § 87(2)(b) (**Board Review 06**). § 87(2)(b) added that after initially being asked to put on a mask by the first store employee, § 87(2)(b) briefly put on a mask before removing it again when it became uncomfortable. § 87(2)(b) said PO Cruz mentioned calling an ambulance two or three times and that she believed PO Cruz was threatening to remove § 87(2)(b) to a psychiatric ward, although she did not hear either officer specifically make any statements to that effect.

PO Rivera's body-worn camera footage begins with the officers entering Armani Exchange. PO Cruz approaches and engages in conversation with § 87(2)(b) though the audio of the BWC does not activate until the 01:00 minute-mark of the media player timestamp (visible at the bottom of the screen) (**Board Review 01**). § 87(2)(b) is wearing a face mask, but it is not covering her nose. At 01:00, PO Cruz tells § 87(2)(b) "It's up to you," and § 87(2)(b) says PO Cruz can do

whatever she wants. PO Cruz says, “Okay, just letting you know. So when I call an ambulance for you, you’re going to go.” § 87(2)(b) says she will not go. PO Cruz says § 87(2)(b) will and that the officers “will call an ambulance right now.” § 87(2)(b) says PO Cruz cannot force her. PO Cruz orders § 87(2)(b) to leave the store. At 01:22, § 87(2)(b) says she will leave when she is finished shopping, and she lifts her face mask so that it now covers her nose. PO Cruz approaches § 87(2)(b) tells her not to touch her and says, “See? I have the mask on.” PO Rivera tells § 87(2)(b) that all she needs to do is wear her mask because it is store policy, and that if the store employees do not want her in the store anymore, she is trespassing. § 87(2)(b) says the store employees cannot kick her out of the store for not wearing a mask.

At 02:17, PO Rivera says § 87(2)(b) mask is on. He asks who § 87(2)(b) is there with and § 87(2)(b) identifies herself. § 87(2)(b) interacts with store employees near the cash registers while PO Rivera walks away from § 87(2)(b). When he turns back around, PO Cruz and § 87(2)(b) are arguing again. PO Cruz asks § 87(2)(b) if she understands what trespass means. § 87(2)(b) says, “Do you understand that I’m sick? I have COPD” (Chronic Obstructive Pulmonary Disorder). PO Cruz says, “Do you want to go to the hospital? If you’re sick?” § 87(2)(b) asks if PO Cruz knows what COPD is and PO Cruz tells her not to be disrespectful and that she does not have to respond to her. § 87(2)(b) tells PO Cruz not to be disrespectful to her. PO Rivera asks a store employee if she wants the officers to stay until § 87(2)(b) leaves and the store employee says yes. The officers remain near the register while employees help § 87(2)(b) complete § 87(2)(b) purchases. § 87(2)(b) and § 87(2)(b) then leave the store.

PO Cruz’s statement was generally consistent with the BWC footage. She said she asked § 87(2)(b) if she wanted to go to the hospital. She did not recall saying, “When I call the ambulance for you, you’re going to go,” but said if she did say that, it would have been because § 87(2)(b) yelling and refusal to comply with her and store employees’ requests to put her mask on or leave the store made § 87(2)(b) an emotionally disturbed person (“EDP”). When PO Cruz was asked if § 87(2)(b) posed a threat to herself or others, PBA Rep. Dan Chu interjected to note that § 87(2)(b) refusal to wear a mask during the COVID-19 pandemic presented a threat to others, and PO Cruz said she agreed (**Board Review 09**). PO Cruz intended to remove § 87(2)(b) to the hospital as opposed to arrest her because she did not want to arrest a wheelchair-bound older woman.

NYPD Patrol Guide, Procedure 221-13 states that someone is an EDP and can be removed to the hospital without their consent only if they “appear to be mentally ill or temporarily deranged and [are] conducting [themselves] in a manner which a police officer believes is likely to result in serious injury to [themselves] or others” (**Board Review 07**).

It is undisputed that PO Cruz threatened to remove § 87(2)(b) to the hospital because she would neither put her mask on properly nor leave the store. § 87(2)(g)

§ 87(2)(b)

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§ 87(2)(b)

§ 87(2)(b)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- _____

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of October 14, 2020, the New York City Office of the Comptroller had no record of a Notice of Claim being filed regarding this incident (**Board Review 09**).
- According to the Office of Court Administration, § 87(2)(b) has no criminal convictions in New York City (**Board Review 10**).

Squad No.: 13

Investigator: _____ Inv. Caroline Moses 02/09/2021
Signature Print Title & Name Date

Squad Leader: _____

Signature

IM Laura Kastner

Print Title & Name

02/09/2021

Date